~~TOP SECRET//COMINT-GAMMA//ORCON//NOFORN~~

NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE MARYLAND 20755-6000

14 June 2011

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that intelligence activities of the National Security Agency during the quarter ending 31 March 2011 were unlawful or contrary to Executive Order or Presidential Directive and thus should have been reported pursuant to Section 1.6(c) of Executive Order 12333, as amended.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

George Ellard

GEORGE ELLARD
Inspector General

MATTHEW G. OLSEN
General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

KEITH B. ALEXANDER
General, U. S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

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Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

I. (U) Intelligence, Counterintelligence, and Intelligence-Related Activities that Violated Law, Regulation, or Policy and Were Substantiated during the Quarter, as well as Actions Taken as a Result of the Violations

A. (U) Intelligence Activities Conducted under Executive Order (E.O.) 12333 Authority

(U) Unintentional Collection against United States Persons (USPs) or Foreign Persons in the United States

(b)(3)-P.L. 86-36

(U//~~FOUO~~) During the first quarter of calendar year 2011 (CY2011), Signals Intelligence (SIGINT) analysts in [ ] instances inadvertently targeted or collected communications to, from, or about USPs while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States SIGINT Directive SP0018.

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(b)(3)-P.L. 86-36

1. (U) **Targeting**

~~(S//REL TO USA, FVEY)~~ [ ] an NSA analyst learned that the selector for a valid foreign intelligence target remained tasked while the target was in the United States [ ] Collection against the target's selector was suspended on [ ] All traffic collected was destroyed [ ] and no reports were issued.

(b)(3)-P.L. 86-36

(U//~~FOUO~~) [ ] an NSA analyst tasked an e-mail selector for a valid foreign intelligence target while the target was in the United States. The selector was detasked on [ ] [ ] No collection occurred.

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(b)(3)-P.L. 86-36

~~(S//REL TO USA, FVEY)~~ [ ] an NSA analyst learned that one selector for a valid foreign intelligence target remained tasked while the target was in the United States from [ ] Collection against the selector was suspended [ ] and no reports were issued.

(b)(3)-P.L. 86-36

(U//~~FOUO~~) [ ] an NSA analyst discovered that selectors associated with a USP had been tasked [ ] The selectors were detasked [ ]

(U//~~FOUO~~) [ ] an NSA analyst learned that a selector for a valid foreign intelligence target remained tasked while the target was in the United States. [ ] All traffic was deleted, and collection against the selector was suspended [ ]

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Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

~~(S//REL TO USA, FVEY)~~ [redacted] an NSA analyst learned that a selector associated with a valid foreign intelligence target remained tasked while the target was in the United States from [redacted] No collection occurred. (b)(1) (b)(3)-P.L. 86-36

2. (U) **Database Queries**

(b)(1) (b)(3)-P.L. 86-36 (b)(1) (b)(3)-P.L. 86-36 (b)(3)-18 USC 798 (b)(3)-50 USC 3024(i)

~~(S//REL TO USA, FVEY)~~ [redacted] analysts performed overly broad or poorly constructed database queries that potentially targeted USPs. For example, these queries used [redacted] which produced imprecise results. [redacted] the queries returned results from the database. The query results were deleted, and no reports were issued. Procedural errors contributed to the following incidents. (b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

- (U//~~FOUO~~) [redacted] an NSA analyst queried raw traffic databases using an e-mail selector associated with a valid foreign intelligence target but without excluding dates during which the target was in the United States. All results were deleted [redacted] and no reports were issued.

(b)(3)-P.L. 86-36

- (U//~~FOUO~~) On [redacted] occasions [redacted] NSA analysts queried raw traffic databases using selectors associated with USPs. On each occasion, the analysts neglected to perform the required research on the selectors before performing the queries. No results were returned from [redacted] of the queries. Results from the remaining [redacted] queries were deleted and no reports were issued.

- (U//~~FOUO~~) [redacted] an NSA analyst performed a query in a raw traffic database without sufficiently researching the selector. Upon discovery that the selector was associated with a USP, the analyst stopped the query and deleted it before checking to see whether results were returned. No reports were issued.

- (U//~~FOUO~~) [redacted] a SIGINT analyst queried a raw traffic database using a selector associated with a valid foreign intelligence target but did not exclude dates during which the target was in the United States. After submitting the query, the analyst remembered that the target had been in the United States during the range of dates submitted and deleted the query before results were returned.

- (U//~~FOUO~~) [redacted] an NSA analyst queried the selector of a valid foreign intelligence target in raw traffic databases after the selector had been detasked because [redacted] The query and results were deleted on [redacted] and no reports were issued.

- (U//~~FOUO~~) [redacted] an NSA analyst performed a query without limiting the date range in a raw traffic database for a USP that had been approved for targeting, thereby causing collection on the selector during an unauthorized period. The collection was deleted [redacted] and no transcripts or reports were issued.

- (U//~~FOUO~~) an NSA analyst performed Communications Metadata Analysis against known USP selectors in a raw traffic database. The analyst believed that the Supplemental Procedures Governing Communications Metadata Analysis, which authorizes communications metadata analysis without confirming the target's location outside the United States, applied to the raw traffic database. No results were returned from the queries and no reports were issued.

- (U//~~FOUO~~) an NSA analyst queried a raw traffic database using a selector associated with a valid foreign intelligence target but did not exclude dates during which the target was in the United States. this error occurred because the analyst misunderstood for the database query. All collection was purged by and no reports were issued.

(b)(3)-P.L. 86-36

- (U//~~FOUO~~) a SIGINT analyst ran queries against a raw traffic database without limiting the results to foreign data. The queries were deleted on and returned no results. No reports were issued.

- (U//~~FOUO~~) On occasions from SIGINT analysts queried raw traffic databases using selectors associated with USPs. The analysts neglected to perform the required research on the selectors before performing the queries. No results were returned from of the queries. Results from the remaining queries were deleted and no reports were issued.

- (U//~~FOUO~~) an NSA employee, while conducting training, ran a demonstration query against a raw traffic database using a selector associated with a USP. Although the query returned results, no USP data was collected. No reports were issued. The example was removed from the class and instructor notes.

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(b)(3)-50 USC 3024(i)

. No reports were issued.

3. (U//~~FOUO~~)

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-P.L. 86-36
-18 USC 798
(b)(3)-50 USC 3024(i)

B. (U) Dissemination of U.S. Identities

~~(S//SI//REL TO USA, FVEY)~~ The NSA Enterprise issued SIGINT product reports during the first quarter of CY2011. In those reports, SIGINT analysts included information that identified USPs or U.S. entities on occasions while pursuing foreign intelligence tasking.

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(b)(3)-P.L. 86-36

In [ ] SIGINT products, such disseminations were found to be improper, and the reports were canceled as NSA/CSS [ ] analysts learned of USPs, U.S. organizations, or U.S. entities named without authorization. All data in the canceled reports was deleted as required, and the reports were not reissued or were reissued with proper minimization.

C. (U) The Foreign Intelligence Surveillance Act (FISA)

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(b)(3)-P.L. 86-36

1. (U) NSA/CSS Title I FISA

a. (U) Tasking Error

~~(S//REL TO USA, FVEY)~~ [ ], NSA analysts discovered that selectors associated with targets authorized under Foreign Intelligence Surveillance Court (FISC) Orders remained tasked after the targets [ ] [ ] The selectors were detasked. On one occasion there was no collection. Collection from the selectors for the remaining [ ] occasions was purged, and no reports were issued.

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~~(TS//SI//NF)~~ [ ] -P.L. 86-36
USC 3024(i)

[ ]

~~(S//REL TO USA, FVEY)~~ [ ]

[ ]

b. (U) Database Queries

~~(S//REL TO USA, FVEY)~~ [ ] an NSA analyst performed [ ] queries on [ ] selectors associated with FISC-authorized targets [ ] raw traffic database that contained E.O. 12333 collection. The queries did not return results and no reports were issued.

~~(S//REL TO USA, FVEY)~~
(U//~~FOUO~~) [ ] an NSA analyst performed a query on the selector for a FISC-authorized target [ ] a raw traffic database without restricting his search to the [ ] FISA collection. No results were retrieved by the query.

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c. (U) Data-Handling Errors

(U//~~FOUO~~) [ ] a SIGINT analyst posted FISA information to an incorrect chat window that is not authorized for FISA data. The analyst notified his overseers of his mistake. Chat posts age off after 48 to 72 hours.

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(b)(3)-50 USC 3024(i)

2. (U) [redacted] (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

(U) ~~(TS//SI//NF)~~ Nothing to report

3. ~~(TS//SI//NF)~~ **Business Records (BR) Order**

~~(TS//SI//NF)~~ [redacted]

4. (U) **The FISA Amendments Act (FAA)** (b)(1) (b)(3)-P.L. 86-36 (b)(3)-18 USC 798 (b)(3)-50 USC 3024(i)

a. (U) **Section 702**

i. (U) **Unauthorized Targeting** (b)(3)-P.L. 86-36

(U//~~FOUO~~) *Note: As previously reported in the 2010 Second Quarter Report, NSA CSS has implemented a new process to ensure that FAA collection that is required to be purged from NSA CSS databases is purged.* [redacted] *to identify non-compliant data that should be purged. All collection that has been marked for purging will be purged. Data that is marked for purging is completely unusable or inaccessible, even if the data has not been physically removed at that time.*

~~(S//SI//REL TO USA, FVEY)~~ An e-mail selector was tasked [redacted] under FAA §702 without sufficient justification that the target was located outside the United States. The selector was detasked [redacted] No collection occurred during the tasking period.

~~(S//REL TO USA, FVEY)~~ [redacted] an NSA analyst discovered that the selector (b)(1) (b)(3)-P.L. 86-36 associated with a valid foreign intelligence target remained tasked while the target was in the United States. The error occurred because [redacted] The selector was detasked [redacted]. Collection from [redacted] has been marked for purging. No reports were issued.

~~(S//REL TO USA, FVEY)~~ [redacted] an NSA analyst discovered that [redacted] selectors had been tasked without sufficient information to determine the target's location outside the United States. The selectors were detasked [redacted] All FAA §702 collection associated with this selector from [redacted] has been marked for purging. No reports were issued.

~~(S//REL TO USA, FVEY)~~ [redacted] an NSA analyst discovered that a selector had been tasked without validation that the target's location was outside the United States. The selector was detasked [redacted] Non-compliant collection has been marked for purging. No reports were issued.

(U//~~FOUO~~) [redacted] an NSA analyst retasked a selector without following tasking procedures, including verification that the target was located outside the United States. The

(b)(3)-P.L. 86-36

(b)(3)-P.L. 86-36

selector was not detasked because by the time the error was discovered, additional NSA tasking had been created and approved [redacted] No data was collected [redacted]

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(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(S//REL TO USA, FVEY)~~ [redacted] an NSA analyst discovered that an FAA §702 selector remained tasked while the target was in the United States between [redacted] The selector was detasked [redacted] Non-compliant collection from [redacted] has been marked for purging. No reports were issued.

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(U//~~FOUO~~) [redacted] an NSA staff officer discovered that [redacted] selectors, approved for E.O. 12333 tasking, had erroneously been tasked against FAA §702 [redacted] The detasking request was submitted [redacted] but detasking was not completed until [redacted] No collection occurred, and no reports were issued.

ii. (U) **Tasking Errors**

(b)(3)-P.L. 86-36

(U//~~FOUO~~) On [redacted] occasions [redacted] NSA analysts discovered that e-mail selectors for valid foreign intelligence targets had been improperly tasked under FAA §702. Because the tasking error rendered the selectors invalid, no collection occurred. The selectors were detasked.

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~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst discovered that an incorrect e-mail selector had been tasked. The error occurred because the analyst mistyped the selector and tasked an unassociated but valid account. The selector was detasked [redacted] No data was collected.

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(U//~~FOUO~~) [redacted] an NSA analyst discovered that a selector tasked under FAA §702 was invalid. The last digit of the selector had mistakenly been excluded. The selector was detasked the same day. Detasking was also confirmed that day. Because the selector was invalid, no collection occurred.

iii. (U) **Database Queries**

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(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(S//REL TO USA, FVEY)~~ [redacted] an NSA analyst performed a database query [redacted] using a selector associated with a USP. The analyst neglected to perform the required research on the selector before performing the query. The query was also overly broad, [redacted] No results were returned from the query.

(U//~~FOUO~~) [redacted] an NSA analyst queried on a target's selector in a raw traffic database without first researching the selector to determine whether it was associated with a USP. The query returned results that associated the selector with a USP. No reports were issued.

iv. (U) **Detasking Delays**

(b)(3)-P.L. 86-36

(U//~~FOUO~~) Because of a technical problem in an NSA collection system, collection continued on selectors authorized under a FISC Order that expired The selectors were detasked The technical problem was resolved

(U//~~FOUO~~) an NSA analyst discovered that a selector had remained tasked for collection after the selector was requested to be detasked from FAA §702 collection on The selector was detasked No data was collected from

(b)(3)-P.L. 86-36

v. (U) **Data-Handling Errors**

(U//~~FOUO~~) an NSA analyst mistakenly e-mailed FAA §702 traffic to personnel not authorized to receive FAA§702 data. The e-mails were recalled

(U//~~FOUO~~) a SIGINT analyst unintentionally forwarded unminimized USP information in FAA §702 traffic to an unauthorized analyst. The traffic was purged from unauthorized databases

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

vi. (U) **Over-collection**

~~(S//REL TO USA, FVEY)~~

~~(S//REL TO USA, FVEY)~~

~~(TS//SI//REL TO USA, FVEY)~~

[redacted]

(b)(1)
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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

b. (U) **Section 705(b)**

i. (U) **Unauthorized Targeting**

~~(S//SI//REL TO USA, FVEY)~~ [redacted] NSA analysts targeted selectors of [redacted] FAA §705(b)-authorized targets while the targets were [redacted] the United States. In both cases, NSA personnel were [redacted] the United States. All tasked selectors associated with the targets were detasked. No reports were issued.

ii. (U) **Database Queries**

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~~(S//SI//REL TO USA, FVEY)~~ [redacted], an NSA analyst was discovered to have queried in a raw traffic database on the selector associated with an FAA §705(b)-authorized target [redacted] who is located in the United States. The selector had been detasked earlier and [redacted] but the analyst did not see this information when he researched the selector before performing the query. The analyst deleted the query and the results [redacted] and no reports were issued.

~~(S//SI//REL TO USA, FVEY)~~ [redacted], an NSA analyst performed database queries on valid FAA §705(b) selectors in raw traffic databases that contain FAA §702 data. The analyst did not follow query guidelines, violating FAA §702 minimization procedures. The queries were deleted. No data was collected, and no reports were issued.

D. (U) **Other**

1. (U) **Unauthorized Access**

(U//~~FOUO~~) [redacted] it was discovered that the approval process for [redacted] access to (b)(3)-P.L. 86-36 mission systems did not include a requirement for an operational review or mission justification, allowing external organizations with no authority to access raw SIGINT data to view or download that data. All SIGINT involved was collected under E.O. 12333 authority. The extent of the unauthorized access is being evaluated, and a review of the approval process is under way. Once these efforts are complete, corrective measures will be implemented.

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

2. (U) **Data-Handling Errors**

~~(S//SI//REL TO USA, FVEY)~~ [redacted] were intercepted as part of surveillance equipment training, in accordance with authorized procedures. However, the trainees read and discussed the content [redacted] rather than deleting them as soon as the equipment was calibrated. All trainees were counseled on proper procedures.

(U//~~FOUO~~) [redacted] an NSA analyst queried a raw traffic database using a selector associated with a valid foreign intelligence target but did not exclude dates during which the

(b)(3)-P.L. 86-36

target was in the United States. The analyst then e-mailed the retrieved data to an external organization. All associated e-mails have been deleted, and no reports were issued.

(U//~~FOUO~~) an NSA analyst disseminated USP information to external organizations. When the USP status was discovered the product was recalled and destroyed.

(U//~~FOUO~~) NSA/CSS discovered that

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(U//~~FOUO~~) an NSA analyst shared with an external organization without proper authorization raw SIGINT containing the identity of a USP. The SIGINT indicated that the USP may have been a target of hostile intelligence activity, but proper approval for dissemination had not been granted.

(U//~~FOUO~~) NSA/CSS attempted to validate the security of an NSA-hosted webpage that was in development. The existing development firewall, however, did not prevent unauthorized users from accessing the link. The link was removed from the operational webpages, and development firewalls have been upgraded with stronger security.

(U//~~FOUO~~) a SIGINT analyst disseminated Top Secret SIGINT metadata on a SECRET network. The affected accounts were deleted, and the SIGINT was purged from the network.

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(b)(3)-50 USC 3024(i)

3. (U) Unauthorized Collection and Data Retention

~~(S//REL TO USA, FVEY)~~ an NSA analyst discovered that The selector, originally believed to be for a valid foreign intelligence target, was determined to be for a USP on and was detasked along with other selectors for the target that same day. Traffic collected from was purged by and no reports were issued.

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4. (U) Consensual Collection

(U//~~FOUO~~) On occasions from NSA analysts discovered that consensual agreements authorizing the targeting of USPs had expired and that the associated selectors had remained on tasking until the following day. Upon discovery, the analysts detasked the selectors. No collection had occurred during the violation periods. A software modification is being implemented to detask consensual collection selectors automatically when the consent expires.

(U//~~FOUO~~) an NSA analyst discovered that tasking in support of a consensual collection request had begun two days before the request was approved. The analyst believed that the request had already been approved on the basis of the

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effective dates of the consent. The selectors were not detasked because the approval was nearing completion at the time the error was discovered. No collection had occurred during the violation period.

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

5. (U) **Computer Network Exploitation (CNE)**

~~(TS//SI//NF)~~

E. (U) Counterintelligence Activities

(U) Nothing to report.

F. (U) Intelligence-Related Activities

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(b)(3)-50 USC 3024(i)

~~(S//SI//NF)~~ To reduce the risk of unauthorized telephony collection and prevent violations, NSA/CSS instituted a process that gives analysts greater and faster insight into a target's location.

When collection occurred, data was purged from NSA/CSS's principal raw traffic repositories when required.

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(b)(3)-50 USC 3024(i)

~~(S//SI//NF)~~

NSA analysts found e-mail selectors this quarter. When collection occurred, it was purged from NSA/CSS's principal raw traffic repositories when required.

(U//~~FOUO~~) Although not violations of E.O. 12333 and related directives, in instances, database access was not terminated when access was no longer required. Once identified, the accesses were terminated. In addition, there were instances of unauthorized access to raw SIGINT and instances of account sharing during the quarter.

(U//~~FOUO~~) it was discovered that analysts working under Title 10 (non-SIGINT/military operations) authority were exposed to raw SIGINT metadata. The exposure, which took place during the occurred because system automated access controls malfunctioned. Manual controls have been put in place to ensure that access of data is commensu rate with authorities.

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II. (U) NSA/CSS Office of the Inspector General (OIG) Intelligence Oversight (IO) Inspections, Investigations, and Special Studies

(U//~~FOUO~~) During the first quarter of CY2011, the OIG reviewed various intelligence activities of NSA/CSS to determine whether they had been conducted in accordance with statutes, Executive Orders, Attorney General procedures, and Department of Defense (DoD) and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.

A. (U) NSA/CSS Hawaii (NSAH)

(U//~~FOUO~~) During the joint IG inspection of NSAH, the IO inspection team reviewed the IO Program, IO training, and application of IO standards in the SIGINT mission activities performed at the site. The IO Program Manager, who has extensive operational and IO experience, is known to the workforce and managers. Although there are established procedures for accomplishing IO tasks, the procedures are not documented. Despite the considerable time and energy spent tracking IO training, the inspection team highlighted weaknesses in the procedures for tracking IO training for reservists and contractors. On the basis of survey results, inspectors found that NSAH operations personnel had an adequate knowledge of IO standards. They had some weaknesses, however, in understanding the IO authorities regarding the handling of raw SIGINT and minimization and dissemination standards. The NSA OIG is tracking corrective actions. Problems with inexperienced analysts constructing overly broad database queries were also noted in the inspection.

B. (U) Annual Selector Review

~~(S//REL TO USA, EVEY)~~

(U//~~FOUO~~) Under Attorney General approved procedures, NSA/CSS is required to conduct a yearly review of certain [redacted] terms. As a result of the review, more than [redacted] terms were removed because the target offices concluded that they did not have foreign intelligence value. No terms were removed because they did not have proper authorizations. [redacted] (b)(1) (b)(3)-P.L. 86-36

C. (U) Trends Noted in the Annual Review of Quarterly IO Reports for 2010

(U//~~FOUO~~) The NSA OIG published a report on the analysis of trends noted in the quarterly IO reports for CY2010. The review highlighted three areas in which analysts committed procedural errors:

- (U//~~FOUO~~) Failure to perform required research on selectors before querying raw traffic databases
- (U//~~FOUO~~) Failure to follow guidelines for querying FAA §705(b)-authorized selectors
- (U//~~FOUO~~) Dissemination of FISA or FAA-derived data to e-mail aliases that include personnel not authorized to receive the data.

The OIG advised the SIGINT Directorate to implement enhanced training and awareness procedures.

D. (U) **Misuse of the U.S. SIGINT System**

(U) Nothing to report.

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(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

E. (U) **Congressional and Intelligence Oversight Board Notifications**

~~(TS//SI//NF)~~ NSA/CSS notified the Congressional intelligence committees of the unauthorized disclosure of classified information from NSA reporting NSA believes that this disclosure has compromised intelligence sources and may severely affect our ability to provide timely and accurate foreign intelligence about activity A copy of the notification is enclosed.

~~(TS//SI//NF)~~ NSA/CSS followed up on the oral notification to the Congressional intelligence committees regarding incidents involving the over-collection of communications. Both incidents involved the acquisition of communications that were The DOJ provided preliminary notice of these incidents to the FISC See the referenced items under "Over-collection" on pages 7 and 8. A copy of the notification is enclosed.

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

F. (U) **Other Notifications**

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~~(S//NF)~~ NSA/CSS has notified the Attorney General of consensual and nonconsensual intelligence-related collection activities for USP hostage or detainee cases.

III. (U) **Substantive Changes to the NSA/CSS IO Program**

(U) Nothing to report.

IV. (U) **Changes to NSA/CSS Published Directives or Policies Concerning Intelligence, Counterintelligence, or Intelligence-Related Activities and the Reason for the Changes**

(U) Nothing to report.

V. (U) **Procedures Governing the Activities of DoD Intelligence Components that Affect USP (DoD Directive 5240.1-R, Procedure 15) Inquiries or Matters Related to IO Programs**

(U) Nothing to report.